

940 CMR 3.00: General Regulations

940 CMR 3.01: Definitions

~~Blind Advertising. An advertisement which has the tendency to induce consumers to contact the advertiser and which fails to reveal that the primary purpose of the advertisement is the sale of goods or services, and fails to reveal the identity of the advertiser.~~

~~Private Home Study, Business, Technological, Social Skills and Career Schools. The term "private school" shall mean a school, or institution, or business maintained or classes conducted for the purpose of teaching or purportedly teaching either by correspondence, in person or in a classroom, business administration, accounting, data processing, computer operation, secretarial skills, sales skills, social skills, habits or customs, general skills, vocational or career skills, or other related courses, instructions or fields, for profit or tuition charge. The term shall not include a school or college regularly chartered and authorized by the laws of the Commonwealth to grant degrees or a school conducted by any person for the education and training of his employees already on the payroll of such person.~~

940 CMR 3.10: Reserved ~~Private Home Study, Business, Technological Social Skills and Career Schools Correspondence and Other~~

~~(1) False Advertising. The making or causing, or permitting to be made or published, any false or deceptive statement or representation or any statement or representation which has the tendency or capacity to mislead or deceive students, prospective students or the public, by way of advertising or otherwise concerning private home study, business, technological, career, or social skills schools, their activities in attempting to enroll students, or concerning the character, nature, quality, value, or scope of any course of instruction or educational service offered, its influence in obtaining employment for its students, or in any other material respect, is an unfair and deceptive trade practice.~~

~~(2) False Representation as to Earnings. The making of false or deceptive statements or representations or any statement or representation which has the tendency or capacity to mislead or deceive students, prospective students, or the public regarding actual or probable earnings or opportunities in any vocation or field of activity is an unfair and deceptive trade practice.~~

~~It is unfair and deceptive practice in the sale or offering for sale of consumer services for a school or person subject to this regulation to represent or imply in advertising or otherwise that persons employed in a particular position earn a stated salary or income or that persons completing the training course will earn the stated salary or income or "up to" the stated salary or income unless:~~

~~(a) The salary or income is equal to or less than the average salary of persons employed less than five years in the indicated position in the Commonwealth, and the advertisement or representation states the basis for calculation of the average salary or income; or the advertisement or representation states the basis for calculation of the salary stated and also~~

~~discloses the average salary or income of persons employed less than five years in the indicated position in the Commonwealth; and~~

~~(b) The advertisement or representation states clearly and conspicuously any limitations, conditions, or other requirements such as union membership or service of an apprenticeship, which must be met before the stated salary or income can be earned; and~~

~~(c) The advertisement or representation states clearly and conspicuously that no guarantee is made that a person who purchases the advertised services will earn the stated salary or income, unless the guarantee is actually offered by the seller.~~

~~The words "EARN \$...." or "EARN UP TO \$...." or words of similar import or meaning constitute a representation that a person who attends the training course will earn the stated salary or income within the meaning of this Regulation.~~

~~(3) Misrepresentation of Opportunity. The making of false, untrue, or deceptive statements or representations or any statement or representation which has the tendency or capacity to mislead or deceive students, prospective students, or the public regarding any opportunities in any vocation or field of activity as a result of the completion of any given course of instruction or educational service is an unfair and deceptive trade practice.~~

~~(4) False Representations as to Student Employment or a School's Connection with or Approval by the United States Government or Commonwealth. The making of false or deceptive statements or representations or any statement or representation which has the tendency or capacity to mislead or deceive students, prospective students, or the public as to services to be rendered in connection with the securing or attempting to secure employment for students, or as to the influence or connection of any school or schools with any branch, department or establishment of the United States Government or with the Commonwealth of Massachusetts is an unfair and deceptive trade practice.~~

~~It is an unfair and deceptive practice for a school or a person subject to this regulation to advertise or represent that the school or instruction course has been approved by any government agency without clearly and conspicuously indicating the scope, nature and terms of that approval, particularly as to how the approval applies to the quality of instruction and the truth of the statements contained in the advertisement or representation. For example, an advertisement or representation shall not state "V.A. Approved," but must state, if such is the case: "V.A. education loans may be used for tuition. V.A. does not review nor guarantee the quality of instruction, nor does it guarantee the truth of the statements in this advertisement."~~

~~(5) Limited Time Offers. Representing an offer to be limited as to time or otherwise when such is not the fact, with the tendency or capacity to mislead or deceive students, prospective students, or the public is an unfair trade practice.~~

~~(6) Misrepresenting Offers as "Special." Representing an offer as "special" when it is in fact the school's regular offer, is an unfair and deceptive trade practice.~~

~~(7) Fictitious Prices. Offering courses of instruction at prices purported to be reduced from what are in fact marked up or fictitious prices is an unfair and deceptive trade practice.~~

~~(8) Money Back Agreements. It is an unfair and deceptive trade practice for any private school subject to 940 CMR 3.00 to use directly or indirectly, any so-called "money back" guarantee, refund agreement, or other similar guarantee, agreement, or contract between school and student which~~

~~(a) is conditioned upon the student taking or passing or having the opportunity to take or pass, a future government or civil service examination or test, or any other form of future examination or test given by any organization not affiliated with the school; or~~

~~(b) is conditioned upon the student being placed upon a government or other eligible list; or~~

~~(c) is conditioned upon the student securing or having the opportunity to secure employment within the field of training pursued; or~~

~~(d) is conditioned upon any other contingency; or~~

~~(e) is discriminatory as to individuals or classes of students with respect to the amount or percentage of the refund to be given; and which because of the text of such guarantee, agreement, or contract, or because of the representations regarding the same, or because of the circumstances or other conditions of its use; or~~

~~(f) otherwise involves deception, misrepresentation, bad faith, or the deceptive concealment of pertinent facts.~~

~~(9) Misleading Scholarship Offers. Making offers of scholarships or partial scholarships in such a manner as to mislead or deceive students or prospective students into the belief that such offers are real when in fact they are not, is an unfair and deceptive trade practice.~~

~~(10) Misuse of the Word "Free." Representing any commodity or service as "free" when in fact such commodity or service is regularly included as part of the course of instruction or service is an unfair and deceptive trade practice.~~

~~(11) Deception in Issuance of Diplomas, Degrees. It is an unfair and deceptive trade practice for any private school subject to 940 CMR 3.00 to issue any certificate or diploma, or to confer any degree which misrepresents the course of study or instruction covered or completed or the accomplishments or standing of the student receiving such certificate, diploma, or degree.~~

~~(12) Misrepresenting Faculty. Making a statement or representation through advertising or otherwise that a certain individual or individuals are members of the faculty of the school or are members of its advisory board or authors of its instructional material, when they are not, or when they provide no or only token services or advice, or the making of statements or representations as to the value of any former connection with the United States Government or the Commonwealth of Massachusetts as an aid to securing employment which are false or misleading, is an unfair and deceptive trade practice.~~

~~(13) Misrepresentation as to Personal Instruction. The representation, through advertising or otherwise, that students are given personal instruction by the head of the institution or a department head thereof who provides no or only token instruction is an unfair and deceptive trade practice.~~

~~(14) Deceptive "Help Wanted" Advertising. The use of "help wanted" or other employment columns in a newspaper or other publication to get in touch with prospective students in such a manner as to lead such prospective students into the belief that a job is offered is an unfair and deceptive trade practice.~~

~~(15) Blind Advertising. The use of "blind" advertisements or sales literature to attract prospective students when such advertisements or literature fail to set forth that courses of instruction or other educational services are being offered is an unfair and deceptive trade practice.~~

~~(16) Deceptive Language in General. The use of language in any form which has the tendency or capacity to mislead or deceive students, prospective students, or the public is an unfair and deceptive trade practice.~~

~~(17) Unqualified Students. Inducing the enrollment or retention of a student for any course of instruction or training for a job or position for which the school knows or has reason to know the student is unfit by reason of educational or permanent physical disqualification, or other material disqualification is an unfair and deceptive trade practice.~~